

REMARKS

Claims 1-15 are pending in this application. Claims 1 and 9 are the independent claims. Claims 1, 2, 5, 8, 9, 13, and 14 are amended. Reconsideration and allowance of the present application are respectfully requested.

Statement Under 37 C.F.R. §1.133(b)

In response to the telephonic interview conducted October 23, 2008 and the Interview Summary dated October 27, 2008, Applicant wishes to thank the Examiner for the courtesies extended during the interview. Applicant has reviewed the Interview Summary and has found it to be substantially accurate in describing the substance of the interview.

Rejections under 35 U.S.C. §112

Claims 1-15 stand rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

With regard to independent claims 1 and 9, the Examiner asserts that the limitation "the determining of the detection metric being accomplished without the use of an actual hardware reception apparatus" is not supported by the specification. Applicant has removed this limitation from the claims, and therefore this rejection is now moot. Therefore, Applicant respectfully requests that the rejections of these claims under 35 U.S.C. §112 be withdrawn.

Rejections under 35 U.S.C. §102 – Iochi

Claims 1-5 and 8 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication 2003/0058972 (“Iochi”). This rejection is respectfully traversed.

With regard to independent claim 1, the Examiner asserts that Iochi teaches all of the claim limitations. Applicant asserts that Iochi does not teach “the determining of the instantaneous detection metric being a function of a spatial processing result from subjecting the access channel to spatial processing in order to simulate actual system performance, wherein spatial processing involves the processing of multiple antenna clusters, the clusters including multiple antennas per cluster, to determine an angle-of-arrival with appropriate antenna weights,” as recited in claim 1. Applicant submits that Iochi only discloses the use of “temporal processing” based on a received signal, and not “spatial processing” involving the processing of multiple antenna clusters, where each cluster includes more than one antenna. Iochi also does not disclose determining an angle-of-arrival with antenna weights. For at least these reasons, Applicant asserts that Iochi does not teach all of the limitations recited in claim 1.

For at least the reasons stated above related to independent claim 1, Applicant asserts that claim 1 is patentable. Due at least to the dependence of claims 2-5 and 8 on claim 1, Applicant also asserts that these claims are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §102 be withdrawn.

Rejections under 35 U.S.C. §103 – Iochi in view of Herrmann

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Iochi in view of U.S. Patent 7,161,952 (“Herrmann”). This rejection is respectfully traversed.

With regard to dependent claim 6, the Examiner uses Herrmann to teach the use of if the random number exceeds the persistency probability the terminal cannot send the preamble.¹ With regard to independent claim 1, Applicant asserts that the claim is patentable over Iochi for at least the reasons stated above. Applicant asserts that a review of Herrmann indicates that Herrmann does not remedy the deficiencies of Iochi. Specifically, Applicant asserts that neither Iochi, nor Herrmann, either singly or in combination with each other, teach or suggest “the determining of the instantaneous detection metric being a function of a spatial processing result from subjecting the access channel to spatial processing in order to simulate actual system performance, wherein spatial processing involves the processing of multiple antenna clusters, the clusters including multiple antennas per cluster, to determine an angle-of-arrival with appropriate antenna weights,” as recited in claim 1.

For at least the reasons stated above related to independent claim 1, Applicant asserts that the claim is patentable. Due at least to the dependence of claim 6 on claim 1, Applicant also asserts that claim 6 is patentable. Therefore, Applicant respectfully requests that this art ground of rejection of this claim under 35 U.S.C. §103 be withdrawn.

¹ Page 6 of the current Office Action.

Rejections under 35 U.S.C. §103 – Iochi in view of Hamada

Claims 7, 9-10, and 13-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Iochi in view of U.S. Patent 6,873,607 (“Hamada”). This rejection is respectfully traversed.

With regard to claim 7, the Examiner uses Hamada to teach the use of calculating an average value of the interference detection rates of the time slots assigned to all R channels every frame.² With regard to independent claim 1, Applicant asserts that claim 1 is patentable over Iochi for at least the reasons stated above. Applicant asserts that a review of Hamada indicates that Hamada does not remedy the deficiencies of Iochi. Specifically, Applicant asserts that neither Iochi, nor Hamada, either singly or in combination with each other, teach or suggest “the determining of the instantaneous detection metric being a function of a spatial processing result from subjecting the access channel to spatial processing in order to simulate actual system performance, wherein spatial processing involves the processing of multiple antenna clusters, the clusters including multiple antennas per cluster, to determine an angle-of-arrival with appropriate antenna weights,” as recited in claim 1.

With regard to independent claim 9, Applicant asserts that claim 9 contains features similar to claim 1 such that claim 9 is patentable for at least the same reasons.

For at least the reasons stated above related to independent claims 1 and 9, Applicant asserts that these claims are patentable. Due at least to the dependence of claims 7, 10, and 13-15 on claims 1 and 9, Applicant also asserts that these claims

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are patentable. Therefore, Applicant respectfully requests that this art ground of rejection of these claims under 35 U.S.C. §103 be withdrawn.

Rejections under 35 U.S.C. §103 – Iochi and Hamada in view of Herrmann

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Iochi and Hamada as applied to claims 9 and 10 above, and further in view of Herrmann. This rejection is respectfully traversed.

With regard to dependent claim 11, the Examiner uses Herrmann to teach that if the random number exceeds the persistency probability the terminal cannot send the preamble.³ With regard to independent claim 9, Applicant asserts that claim 9 is patentable over Iochi in view of Hamada for at least the reasons stated above. Applicant asserts that a review of Herrmann indicates that Herrmann does not remedy the deficiencies of Iochi in view of Hamada. Specifically, Applicant asserts that neither Iochi, nor Hamada, nor Herrmann, either singly or in combination with each other, teach or suggest “determining an instantaneous detection metric for a given wireless channel realization that is a function of a spatial processing result from subjecting the RACH preamble to spatial processing in order to simulate actual system performance, wherein spatial processing involves the processing of multiple antenna clusters, the clusters including multiple antennas per cluster, to determine an angle-of-arrival with appropriate antenna weights,” as recited in claim 9.

For at least the reasons stated above related to independent claim 9, Applicant asserts that this claim is patentable. Due at least to the dependence of claim 11 on claim 9, Applicant also asserts that this claim is patentable. Therefore, Applicant

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respectfully requests that this art ground of rejection of this claim under 35 U.S.C. §103 be withdrawn.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that claim 12 contains allowable subject matter. However, Applicant believes that all of claims 1-11 and 13-15 are also patentable for at least the reasons stated above.

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CONCLUSION

In view of the above remarks and amendments, Applicant respectfully submits that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 CFR §§ 1.17 and 1.136(a), Applicants petition for a one (1) month extension of time for filing a reply to the August 22, 2008 Office Action, and submit the required \$130 extension fee herewith.

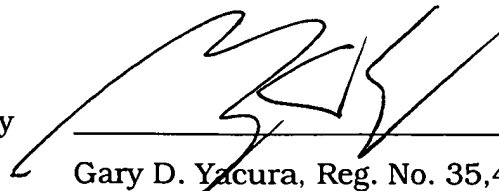
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

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